Supreme Court, U.S.
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IN THE

Supreme Court of the United States

October Term, 1970

No. 572

JACK LEWIS COUSINS,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR REHEARING OF DENIAL OF PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

APPLICATION BY PETITIONER FOR REHEARING

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This Court on November 9, 1970 denied Jack Lewis Cousins' Petition for Writ of Certiorari in this cause. Petitioner hereby applies for a rehearing of that denial pursuant to Supreme Court Rule 58.

Petitioner respectfully submits that this Court should grant the Petition for Writ of Certiorari for the reasons previously presented and on another substantial ground not previously presented which is presented hereafter.

It will be remembered that petitioner Cousins obtained

seven spoons of heroin after being implored to do so by undercover government agent Hayes (R 66-68, 79, 98, 99). Cousins gave Special Agent Park two spoons of heroin and Park gave petitioner Cousins $150.00. Petitioner Cousins went into the kitchen and gave undercover agent Hayes $15.00 a spoon less the $5.00 Cousins had loaned to Hayes. As Cousins did not have quite the right change he gave Hayes but $23.00 with the remaining $2.00 to be paid to Hayes when he got change (R 86). The balance of the money which figured out at $60.00 a spoon was the amount of money per spoon which Cousins turned over to his friend, the person from whom Cousins obtained the heroin. Petitioner Cousins did not purchase the heroin and made no money on the transaction. In fact, the original understanding with the informant Hayes was that petitioner Cousins was not to make any money on the arrangement but was merely to give Hayes an opportunity to acquire some money for himself and his family and act as an intermediary between Hayes and the person who had the heroin (R 81).

A writ of certiorari should be granted and the Court should, after granting the same, direct a verdict of acquittal in this case. The law is clear that one who acts as an intermediary may not be convicted as a seller. See *Adams v. U. S.*, 220 F.2d 297 (CA 5, 1955) where the Court of Appeals directed a verdict of acquittal when a person was charged with being a seller of narcotics under circumstances similar to those described in the preceding paragraph.

Petitioner respectfully asks that his petition for writ of

certiorari be granted on the grounds previously urged as well as the ground mentioned herein and not previously presented.

Respectfully submitted.

JOEL A. C. RINDAL
MALCOLM L. EDWARDS
Counsel for Petitioner

The undersigned hereby certify that the Petition for Rehearing is presented in good faith and not for delay. Counsel further certify that the petition is restricted to one of the grounds specified in Rule 38 (2), namely—"to other substantial grounds available to petitioner although not previously presented".

JOEL A. C. RINDAL

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